

REMARKS

The foregoing amendments and these remarks are responsive to the Office Action mailed February 28, 2005 in connection with the above-identified application. The Applicant notes that the Action has been made Final. The instant amendment reduces the number of claims pending and does not add any new matter. It is respectfully requested that the Examiner enter the amendment and pass the application to issue.

Claim Rejections 35 U.S.C. § 103

In the Action, claims 1-3 and 5-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Youngblood et al., U.S. Patent No. 3,486,173, in view of Eckstrom et al, U.S. Patent No. 4,630,530. Claim 4 was rejected under 35 U.S.C. 103(a) are being unpatentable in view of Youngblood et al., in view of Eckstrom et al. and in further view of Ware, U.S. Patent No. 6,550,072. Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Youngblood et al. in view of Eckstrom et al. and in further view of Miller et al., U.S. Patent No. 5,685,028. Claims 1-3 and 5-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruyere, U.S. Patent No. 6,003,157, in view of Eckstrom et al.

Claims 8-11 have been canceled in the foregoing amendments.

In the foregoing amendments, claim 1 has been amended to more particularly point and claim the Applicant's invention. Support for the amendments is found in the description and in Applicant's disclosure as set forth in the drawing figures, particularly Figs. 1-3.

The Applicant's claimed invention is a bedpan having a detachable ventilation unit which includes an ozone generating means and fan means. The instantly amended claim 1 recites the following novel features of the detachable ventilation unit:

a housing conforming to the configuration of the bedpan, said housing having a front wall, a rear wall, a bottom wall, and opposing side walls defining a plenum chamber therein, said front wall of said housing configured for coextensive alignment with said rear wall of said bedpan, and said side walls and bottom walls of said housing respectively aligning with said side walls and bottom wall of said bedpan; said rear wall having an intake port therein positioned to align with said venting port of said bedpan, said intake port allowing airflow communication between said plenum chamber and said venting port; said rear wall of said housing including at least one outlet port.

As stated in Applicant's disclosure, the ventilation unit of Applicant's invention conforms to the configuration of the bedpan so as to appear integrally formed when the bedpan is attached. The Applicant submits that Applicant's unique configuration is not anticipated by Youngblood. The Applicant's bedpan assembly is superior to that of Youngblood because it does not have auxiliary hoses which hang from the bedpan and make handling awkward. The Applicant wishes to point out that the Youngblood bedpan requires hoses because Youngblood does not disclose a means of *deodorizing* the air. The long hoses in Youngblood are a necessity since Youngblood solves the odor problem by simply providing physical distance between the bedpan and the odors emitted therefrom by using a length of hose.

It would not have been obvious to modify Youngblood to produce a "hose-less" configuration similar to Applicant's invention because without a deodorizing means it would only result in a greater amount of odor which is contrary to the intent of the device. The

Examiner states that a deodorizing means can be found in Eckstrom. The Applicant submits that the Examiner would be using impermissible hindsight by proposing to redesign Youngblood to eliminate the hoses in view of Applicant's disclosure. Such a proposed modification would require that the Youngblood be modified to include a deodorizing means, and then further modified in view of knowledge gleaned from Applicant's claimed hose-less configuration, which requires a deodorizing means to be effective. "The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention . . .". *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The Applicant believes that the foregoing demonstrates that the instantly amended claims 1-3 and 5-10 are patentable over Youngblood et al., U.S. Patent No. 3,486,173, in view of Eckstrom et al, U.S. Patent No. 4,630,530, and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103.

In the Action, Claims 1-3 and 5-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bruyere, U.S. Patent No. 6,003,157, in view of Eckstrom et al. The Bruyere device does not disclose a bedpan having a detachable ventilation unit as described by Applicant. Specifically, Bruyere does not describe a ventilation unit having:

a housing conforming to the configuration of the bedpan, said housing having a front wall, a rear wall, a bottom wall, and opposing side walls defining a plenum chamber therein, said front wall of said housing configured for coextensive alignment with said rear wall of said bedpan, and said side walls and bottom walls of said housing respectively aligning with said side walls and bottom wall of said bedpan; said rear wall having an intake port therein positioned to align with said venting port of said bedpan, said intake port allowing airflow communication between said plenum chamber and said venting port; said rear

wall of said housing including at least one outlet port.

The Applicant's device provides a self-contained integral unit, and is therefore superior to the arrangement to that of Bruyere. At Fig. 9 Bruyere discloses a bedpan connected by a ventilation hose to a deodorizing canister containing charcoal filters. The Examiner states that while Bruyere does not include an ozonation means for deodorizing, such can be found in Eckstrom.

The Applicants submits that a modification of Bruyere to include a further include an ozonation as a deodorizing mean would be unnecessary since Bruyere already includes an filter system for deodorizing purposes, and that modification would therefore be unobvious. Further, the modification would still not produce Applicant's self-contained integral hose-less unit. Again, the examiner is using impermissible hindsight to redesign Bruyere to include an ozonation means instead of an air filter system, and then further modify a bedpan to provide a self-contained hose-less unit *in view of Applicant's disclosure*.

The Applicant believes that the foregoing demonstrates that the instantly amended claims 1-3 and 5-10 are patentable over Bruyere, U.S. Patent No. 6,003,157, in view of Eckstrom et al., and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103

Claim 4 was rejected under 35 U.S.C. 103(a) are being unpatentable in view of Youngblood et al., in view of Eckstrom et al. and in further view of Ware, U.S. Patent No. 6,550,072. Claim 4 depends from the instantly amended claim 1, which Applicant believes to be patentable over Youngblood et al. in view of Eckstrom et al. as discussed *supra*. In view of instantly amended claim 1, the Applicant respectfully requests the withdrawal of the rejection of

claim 4 under 35 U.S.C. § 103(a).

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Youngblood et al. in view of Eckstrom et al. and in further view of Miller et al., U.S. Patent No. 5,685,028.

Claim 11 has been canceled.

In view of the foregoing, the Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 of pending claims 1-7.

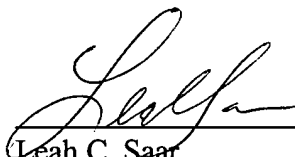
Conclusion

The Applicant respectfully submits that the application now stands in condition for allowance. The Examiner is requested to telephone the undersigned in order to discuss any further objections, allowing Applicant to expedite a response.

Respectfully submitted,

MCHALE & SLAVIN, P.A.

5/31/05
Date



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